REMARKS

Applicant has reviewed the Office Action mailed on October 23, 2003 as well as the art cited. Claim 41 has been cancelled without prejudice or disclaimer and the Applicant reserves the right to reintroduce the claim at a later time. Claims 1-40 and 42-54 are currently pending in this application.

Information Disclosure Statement

Applicant respectfully requests that a copy of the 1449 form, listing all references that were submitted with the Information Disclosure Statement filed on October 7, 2003, marked as being considered and initialed by the Examiner, be returned with the next official communication.

Rejections Under 35 U.S.C. § 103

Claims 1-6, 10-15, 18-24, 27, 49-51 and 53-54 were rejected under 35 USC § 103(a) as being unpatentable over Parruck et al. (U.S. Patent No. 6,349,098).

Claims 7, 8, 16, 17, 25, 28 and 52 were rejected under 35 USC § 103(a) as being unpatentable over Parruck et al. (U.S. Patent No. 6,349,098) in view of "ATM Foundation for Broadband Networks" to Black and further in view of "Soft PVCS in an ATM Network" to Rice.

Claims 9, 26, 29-33, 35-36, 38-44 and 47-48 were rejected under 35 USC § 103(a) as being unpatentable over Parruck et al. (U.S. Patent No. 6,349,098) in view of "An Overview of Broad-band Access Technologies" to Gagnaie.

Claims 34, 37, 45 and 46 were rejected under 35 USC § 103(a) as being unpatentable over Parruck et al. (U.S. Patent No. 6,349,098) in view of "An Overview of Broad-band Access Technologies" to Gagnaie and "ATM Foundation for Broadband Networks" to Black and further in view of "Soft PVCS in an ATM Network" to Rice.

Applicant respectfully traverses these rejections.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to

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combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP § 2143 - § 2143.03.

When applying 35 U.S.C. §103, the claimed invention must be considered as a whole; the references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and a reasonable expectation of success is the standard with which obviousness is determined. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

Claim 1 is directed to a method of automatic permanent virtual circuit connection activation. The method includes detecting initiation of communication between a first and a second network element at a first reference point, receiving at least one virtual circuit identifier of the first network element, learning at least one virtual circuit identifier of the second network element, and creating a translation connection between the first and second network elements.

Parruck does not teach or suggest the method of automatic permanent virtual circuit connection activation as found in claim 1. The Examiner correctly notes that Parruck does not disclose learning at least one virtual circuit identifier of the second element as found in claim 1. The Examiner's alleged cure of the deficiency amounts to hindsight reconstruction. Further, Parruck does not teach or suggest creating a translation connection between the first and second network elements as found in claim 1. There is no suggestion or motivation in Parruck to modify its method of forming a virtual circuit to meet the limitations of the present claims. Applicant respectfully notes that Parruck does not teach or suggest learning at least one virtual circuit identifier as found in claim 1 and the Examiner cannot remedy this by hindsight reconstruction.

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Thus a prima facie case of obviousness has not been established. As a result claim 1 should be allowed.

Claims 2-10 depend from and further define allowable claim 1 and for at least the reasons provided above are also allowable. In addition, since the Applicant believes the dependent claims are allowable for the above reasons, not all rejections of said claims may have been addressed in this response. Hence, Applicant retains the right to address said rejections if a further response is required. As a result, claims 2-10 should also be allowed.

Claim 11 is directed to a method of automatic permanent virtual circuit connection activation. The method includes detecting initiation of communication between a first and a second network element at a first reference point, learning at least one virtual circuit identifier of the first network element, learning at least one virtual circuit identifier of the second network element, and creating a translation connection between the first and second network elements.

Parruck does not teach or suggest the method of automatic permanent virtual circuit connection activation as found in claim 11. The Examiner correctly notes that Parruck does not disclose learning at least one virtual circuit identifier of the second element as found in claim 11. Further, Parruck does not teach or suggest learning at least one virtual circuit identifier of the first network element and found in claim 11. The Examiner's alleged cure of the deficiency amounts to hindsight reconstruction. Further, Parruck does not teach or suggest creating a translation connection between the first and second network elements as found in claim 11. There is no suggestion or motivation in Parruck to modify its method of forming a virtual circuit to meet the limitations of the present claims. Applicant respectfully notes that Parruck does not teach or suggest learning at least one virtual circuit identifier as found in claim 11 and the Examiner cannot remedy this by hindsight reconstruction. Thus a prima facie case of obviousness has not been established. As a result claim 11 should be allowed.

Claims 12-19 depend from and further define allowable claim 11 and for at least the reasons provided above are also allowable. In addition, since the Applicant believes the dependent claims are allowable for the above reasons, not all rejections of said claims may have

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been addressed in this response. Hence, Applicant retains the right to address said rejections if a further response is required. As a result, claims 12-19 should also be allowed.

Claim 20 is directed to a method of automatic permanent virtual circuit connection activation. The method includes detecting initiation of communication between customer premises equipment and a network element at a first reference point, receiving at least one virtual circuit identifier of the network element, learning at least one virtual circuit identifier of the customer premises equipment, and creating a translation connection between the customer premises equipment and the network element.

Parruck does not teach or suggest the method of automatic permanent virtual circuit connection activation as found in claim 20. The Examiner correctly notes that Parruck does not disclose learning at least one virtual circuit identifier of the customer premises equipment as found in claim 20. The Examiner's alleged cure of the deficiency amounts to hindsight reconstruction. Further, Parruck does not teach or suggest creating a translation connection between the customer premises equipment and the network element as found in claim 20. There is no suggestion or motivation in Parruck to modify its method of forming a virtual circuit to meet the limitations of the present claims. Applicant respectfully notes that Parruck does not teach or suggest learning at least one virtual circuit identifier as found in claim 20 and the Examiner cannot remedy this by hindsight reconstruction. Thus a prima facie case of obviousness has not been established. As a result claim 20 should be allowed.

Claims 21-28 depend from and further define allowable claim 20 and for at least the reasons provided above are also allowable. In addition, since the Applicant believes the dependent claims are allowable for the above reasons, not all rejections of said claims may have been addressed in this response. Hence, Applicant retains the right to address said rejections if a further response is required. As a result, claims 21-28 should also be allowed.

Claim 29 is directed to a method of automatically configuring a permanent virtual circuit in an ATM network. The method includes detecting communication initiation of an ATU-R, receiving at least one virtual circuit identifier of an ATU-C, learning at least one virtual circuit

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identifier of the ATU-R, and creating a translation connection between the ATU-R and the ATU-C.

Parruck alone or in combination with Gagnaie does not teach or suggest the method of automatically configuring a permanent virtual circuit in an ATM network as found in claim 29. The Examiner correctly notes that Parruck does not disclose learning at least one virtual circuit identifier of the ATU-R as found in claim 29. The Examiner's alleged cure of the deficiency amounts to hindsight reconstruction. Further, the references alone or in combination do not teach or suggest creating a translation connection between the ATU-R and the ATU-C as found in claim 29. There is no suggestion or motivation in Parruck to modify its method of forming a virtual circuit to meet the limitations of the present claims. Applicant respectfully notes that the cited references do not teach or suggest learning at least one virtual circuit identifier as found in claim 29 and the Examiner cannot remedy this by hindsight reconstruction. Thus a prima facie case of obviousness has not been established. As a result claim 29 should be allowed.

Claims 30-37 depend from and further define allowable claim 29 and for at least the reasons provided above are also allowable. In addition, since the Applicant believes the dependent claims are allowable for the above reasons, not all rejections of said claims may have been addressed in this response. Hence, Applicant retains the right to address said rejections if a further response is required. As a result, claims 30-37 should also be allowed.

Claim 38 is directed to a communication network. The communication network includes an access network, a central unit selectively coupled to the access network, customer premises equipment selectively coupled to the central unit, and an automatic permanent virtual circuit (PVC) connection activation function embedded within the central unit. The automatic PVC is enabled when the customer premises equipment is initialized and is adapted to create a translation connection between the customer premises equipment and the central unit.

Parruck alone or in combination with Gagnaie does not teach or suggest the communication network of claim 38. In particular, the references alone or in combination do not teach or suggest an automatic permanent virtual circuit connection (PVC) activation function embedded within the central unit as found in claim 38. Further the references alone or in combination do not teach or suggest the automatic PVC is enabled when the customer premises

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equipment is initialized and is adapted to create a translation connection between the customer premises equipment and the central unit. As a result, the Examiner has not established a prima facie case of obviousness and claim 38 should be allowed.

Claims 39-40 depend from and further define allowable claim 38 and for at least the reasons provided above are also allowable. In addition, since the Applicant believes the dependent claims are allowable for the above reasons, not all rejections of said claims may have been addressed in this response. Hence, Applicant retains the right to address said rejections if a further response is required. As a result, claims 39-40 should also be allowed.

Claim 42 is directed to a method of automatic permanent virtual circuit connection activation. The method includes detecting initiation of communication at a user network interface between a first and a second network element, receiving at least one virtual circuit identifier of the first network element, learning at least one virtual circuit identifier of the second network element, and creating a translation connection between the first and second network elements.

Parruck alone or in combination with Gagnaie does not teach or suggest the method of automatic permanent virtual circuit connection activation as found in claim 42. The Examiner correctly notes that Parruck does not disclose learning at least one virtual circuit identifier of the second network element as found in claim 42. The Examiner's alleged cure of the deficiency amounts to hindsight reconstruction. Further, Parruck does not teach or suggest creating a translation connection between the first and second network elements as found in claim 20. There is no suggestion or motivation in Parruck to modify its method of forming a virtual circuit to meet the limitations of the present claims. Applicant respectfully notes that Parruck alone or in combination with Gagnaie does not teach or suggest learning at least one virtual circuit identifier as found in claim 42 and the Examiner cannot remedy this by hindsight reconstruction. Thus a prima facie case of obviousness has not been established. As a result claim 42 should be allowed.

Claims 43-48 depend from and further define allowable claim 42 and for at least the

reasons provided above are also allowable. In addition, since the Applicant believes the dependent claims are allowable for the above reasons, not all rejections of said claims may have been addressed in this response. Hence, Applicant retains the right to address said rejections if a further response is required. As a result, claims 43-48 should also be allowed.

Claim 49 is directed to a method of automatic permanent virtual circuit connection activation. The method includes detecting initiation of communication at a user network interface between a first and a second network element, learning at least one virtual circuit identifier of the first network element, learning at least one virtual circuit identifier of the second network element, and creating a translation connection between the first and second network elements.

Parruck does not teach or suggest the method of automatic permanent virtual circuit connection activation as found in claim 49. The Examiner correctly notes that Parruck does not disclose learning at least one virtual circuit identifier of the first network element as found in claim 49. The Examiner's alleged cure of the deficiency amounts to hindsight reconstruction. Further, Parruck does not teach or suggest creating a translation connection between the first and second network elements as found in claim 49. There is no suggestion or motivation in Parruck to modify its method of forming a virtual circuit to meet the limitations of the present claims. Applicant respectfully notes that Parruck does not teach or suggest learning at least one virtual circuit identifier as found in claim 49 and the Examiner cannot remedy this by hindsight reconstruction. Thus a prima facie case of obviousness has not been established. As a result claim 49 should be allowed.

Claims 50-54 depend from and further define allowable claim 49 and for at least the reasons provided above are also allowable. In addition, since the Applicant believes the dependent claims are allowable for the above reasons, not all rejections of said claims may have been addressed in this response. Hence, Applicant retains the right to address said rejections if a further response is required. As a result, claims 50-54 should also be allowed.

CONCLUSION
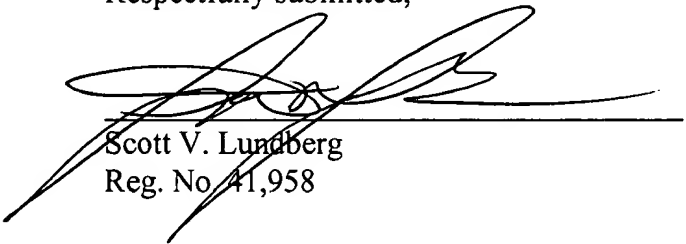
Applicant respectfully submits that claims 1-40 and 42-54 are in condition for allowance

and notification to that effect is earnestly requested. If necessary, please charge any additional

fees or credit overpayments to Deposit Account No. 502432.

If the Examiner has any questions or concerns regarding this application, please contact

the undersigned at (612) 332-4720.

Respectfully submitted,

Date: 2-13-4

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